

108TH CONGRESS  
2D SESSION

# S. 1355

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2004

Referred to the Committee on Resources

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## AN ACT

To authorize the Bureau of Reclamation to participate in the rehabilitation of the Wallowa Lake Dam in Oregon, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Wallowa Lake Dam  
5       Rehabilitation and Water Management Act of 2004”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ASSOCIATED DITCH COMPANIES, INCOR-  
4 PORATED.—The term “Associated Ditch Companies,  
5 Incorporated” means the nonprofit corporation es-  
6 tablished under the laws of the State of Oregon that  
7 operates Wallowa Lake Dam.

8 (2) PHASE II AND PHASE III OF THE WALLOWA  
9 VALLEY WATER MANAGEMENT PLAN.—The term  
10 “Phase II and Phase III of the Wallowa Valley  
11 Water Management Plan” means the Phase II pro-  
12 gram for fish passage improvements and water con-  
13 servation measures, and the Phase III program for  
14 implementation of water exchange infrastructure, de-  
15 veloped for the Wallowa River watershed, as con-  
16 tained in the document entitled “Wallowa Lake Dam  
17 Rehabilitation and Water Management Plan Vision  
18 Statement”, dated February 2001, and on file with  
19 the Bureau of Reclamation.

20 (3) SECRETARY.—The term “Secretary” means  
21 the Secretary of the Interior, acting through the  
22 Commissioner of Reclamation.

23 (4) WALLOWA LAKE DAM REHABILITATION  
24 PROGRAM.—The term “Wallowa Lake Dam Reha-  
25 bilitation Program” means the program for the re-  
26 habilitation of the Wallowa Lake Dam in Oregon, as

1 contained in the engineering document entitled,  
2 “Phase I Dam Assessment and Preliminary Engi-  
3 neering Design”, dated December 2002, and on file  
4 with the Bureau of Reclamation.

5 **SEC. 3. AUTHORIZATION TO PARTICIPATE IN PROGRAM.**

6 (a) GRANTS AND COOPERATIVE AGREEMENTS.—The  
7 Secretary may provide grants to, or enter into cooperative  
8 or other agreements with, tribal, State, and local govern-  
9 mental entities and the Associated Ditch Companies, In-  
10 corporated, to plan, design, and construct facilities needed  
11 to implement the Wallowa Lake Dam Rehabilitation Pro-  
12 gram and Phase II and Phase III of the Wallowa Valley  
13 Water Management Plan.

14 (b) CONDITIONS.—As a condition of providing funds  
15 under subsection (a), the Secretary shall ensure that—

16 (1) the Wallowa Lake Dam Rehabilitation Pro-  
17 gram meets the standards of the dam safety pro-  
18 gram of the State of Oregon;

19 (2) the Associated Ditch Companies, Incor-  
20 porated, agrees to assume liability for any work per-  
21 formed, or supervised, with funds provided to it  
22 under this Act; and

23 (3) the United States shall not be liable for  
24 damages of any kind arising out of any act, omis-

1        sion, or occurrence relating to a facility rehabilitated  
2        or constructed under this Act.

3        (c) COST SHARING.—

4            (1) IN GENERAL.—The Federal share of the  
5        costs of activities authorized under this Act shall not  
6        exceed 80 percent.

7            (2) EXCLUSIONS FROM FEDERAL SHARE.—  
8        There shall not be credited against the Federal  
9        share of such costs—

10            (A) any expenditure by the Bonneville  
11        Power Administration in the Wallowa River wa-  
12        tershed; and

13            (B) expenditures made by individual agri-  
14        cultural producers in any Federal commodity or  
15        conservation program.

16        (d) COMPLIANCE WITH STATE LAW.—The Secretary,  
17        in carrying out this Act, shall comply with otherwise appli-  
18        cable State water law.

19        (e) PROHIBITION ON HOLDING TITLE.—The Federal  
20        Government shall not hold title to any facility rehabilitated  
21        or constructed under this Act.

22        (f) PROHIBITION ON OPERATION AND MAINTENANCE.—The Federal Government shall not be respon-  
23        sible for the operation and maintenance of any facility con-  
24        sible for the operation and maintenance of any facility con-  
25        structed or rehabilitated under this Act.

1 (g) OWNERSHIP AND OPERATION OF FISH PASSAGE  
2 FACILITY.—Any facility constructed using Federal funds  
3 authorized by this Act located at Wallowa Lake Dam for  
4 trapping and transportation of migratory adult salmon  
5 may be owned and operated only by the Nez Perce Tribe.

6 **SEC. 4. RELATIONSHIP TO OTHER LAW.**

7 Activities funded under this Act shall not be consid-  
8 ered a supplemental or additional benefit under Federal  
9 reclamation law (the Act of June 17, 1902 (32 Stat. 388,  
10 chapter 1093), and Acts supplemental to and amendatory  
11 of that Act (43 U.S.C. 371 et seq.)).

12 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

13 There is authorized to be appropriated to the Sec-  
14 retary to the pay the Federal share of the costs of activi-  
15 ties authorized under this Act \$25,600,000.

Passed the Senate September 15, 2004.

Attest: EMILY J. REYNOLDS,  
*Secretary.*